ASSEMBLY INTERIM COMMITTEE ON GOVERNMENTAL EFFICIENCY AND ECONOMY

MEETING IN SAN FRANCISCO
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455 Golden Gate Avenue

Friday, November 17, 1961 PART II

BUILDING DESIGNERS. AB 2428 - Unruh

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INTRODUCTION BY LARRY MARGOLIS, Administrative Assistant to Assemblyman Unruh

MARGOLIS: Memorandum re Assembly Bill 2428 as introduced in the California State Legislature on March 29, 1961, by Assemblyman Unruh, and referred to Interim Committee.

Assembly Bill 2428 as introduced in the 1961 legislature proposes to add chapter 6.5, commencing with Section 6650 to Division e, of the Business and Professions Code, relating to the certification and regulation of Building Designers by the California State Board of Architectural Examiners. The bill has been referred to Interim Committee for study and consideration.

The purpose of the bill is to regulate persons engaged in offering agency services in the field of building design, presently practicing unregulated, but referred to in Section 5536 and 5537 of the Business and Professions Code.

It is intended to demonstrate the need for State regulation of building design to protect the public health and safety.

In California, literally anyone and everyone can offer the services of building design simply by informing his prospective clients that he is "not an architect." There is no regulation of ability in the performance of building design services. Aside from later comments in this memorandum which are directed to possible specific applications of the bill, the purpose of this bill is to increase substantially the responsibility of those persons engaging in or about to engage in the professional agency services of building design, requiring that such persons shall be obligated to prove their ability, skill and competence in this field with appropriate disciplinary action in the event of incompetence.

History and Background. In the year 1901, the Architects Act was enacted and it "grandfathered" 261 architects without any examination. The applicant merely had to show that he was practicing Architecture when the act was passed. The act was not a complusive act. It was an act merely to certify the Architect. Anyone could practice Architecture provided that he notified his client that he was not a "Certified Architect." Thereby evolved the "Written Notice Clause." A good reference as it applies is found in the case, McManus, In re (1907) 151C 331, 90P 702.

Architecture is practiced today as it was then. The Architect uses his creative and administrative talents. An interesting comment in this regard appeared in a nationally syndicated newspaper column, "An Architect, after all, is an artist, in the broad sense of the word." The building designer (uncertified Architect) too uses his creative and administrative talents. He too is an artist in the broad sense of the word. Assuming that the architect is regulated in the interest of protecting the public health and safety, then the building designer should be regulated in a similar manner. It would therefore seem at the very least to impose on building designers an obligation to guarantee that satisfactory results will ensue from their professional work.

In 1929 the enactment of the Civil Engineers Act was also passed to protect the public health and safety.

In 1931 the Engineers Act was amended to provide for the catagory of Structural Engineer -- a classification exempted by a 1929 amendment to the Architects Act which applied only to engineers that had been qualified by the Architects Board and allowed to do the work of a licensed architect without the necessity of the written notice.

Architects were not exempt from the Engineers Act until the year 1937, however, during these eight years there were no Architects prosecuted for violation of the Engineers Act. The conclusion may then be safely drawn

that the Engineers Act does not govern the person who prepares architectural drawings and specifications, and this would seem to be proof that it is not necessary to have more than a rudimentary knowledge of engineering to practice architecture.

As of this date, there is still no exemption written in to the Architects Act for a Civil Engineer, however, there and NO prosecutions being undertaken against any Civil Engineers for failure to comply with the written notice provision of the Architects act.

The investigators of the Architects and Engineers Boards are skilled in the arts of harrassment and they have seen fit to define engineering under Section 673 (e) of the Engineers Act as applying to architectural designs, plans and specifications, as well as engineering. If this interpretation and their actions are correct, then the Engineers Act not only regulates the practice of engineering but Architecture as well.

In response to an inquiry to the Dean of the College of Engineering at the University of California, he replied:

> "At the University of California, an engineering student is NOT required to take courses in architecture in order to receive a degree in civil engineering. An examination in architectural design is NOT necessary before a student can complete all the requirements for an engineering degree."

In contesting the enforcement of the practice of architecture, either of certified architects or uncertified architects by representatives of the Engineers Board, we have sought the definition of Civil and Structural Engineering.

Again the Dean of the College of Engineering at the University of California with the concurrence of the Chairman of their Civil Engineering Department defined Civil and Structural Engineering as follows:

> "Engineering is a profession in which the knowledge of the mathematical and natural sciences gained by study, experience and practice is applied, with judgment to develope ways to utilize economically the materials and forces of nature for the progressive well being of mankind."

Under the terms of existing law, there is no clear cut definition of the term "Architecture."

In the past, numerous attempts have been made to present to the Legislature proposed legislation that purported to resolve the areas of confusion with regard to these laws. Almost in every instance the proposed legislation took the form of either adding to the confusion or denying persons now legally practicing their rights.

We propose that AB 2428, with appropriate amendments can be the means of clarifying existing law, protect the public health and safety and not curtail the rights of those persons presently engaged in earning a livelihood for themselves and their families through their practice of design as permitted under existing law.

Cost of Program. A program of licensing as provided in AB 2428, would be self supporting financially through fees provided for in the bill.

Opposition Opinion. (letter from President California Board of Architectural Examiners, May 16, 1961.)

> "Opponents to AB 2428 agree that there is the need for revisions to the Architects Act which would more adequately restrict the practice of Architecture." They further state their opposition to "any legislation that would tend to license architects regardless of nomenclature without subscribing to the existing qualifications and examinations required by the state of California for the practice of architecture."

COMMENT. 1. It appears that from this position the opposition is unaware that at the present time there is NO restriction in the practice of architecture provided the person practising notifies the client that he is "not an architect." The ONLY RESTRICTION IS THE RIGHT TO CALL ONE'S SELF AN ARCHITECT.

Conclusions and Recommendations.

1. A need for revision of the Architects Act exists. (Testimony by Board of Architectural Examiners State of CAlifornia, San Francisco, California, November 13, 1959, transcript Page 6) "It's apparent to us

that changes in the law should be made -- we are of the opinion that architecture is architecture, whether it's practised in connection with the exempt building or whether it's practixed in connection with the entire scope of the profession.

The law as it exists now is difficult, if not impossible, to enforce."

2. As a result of past recommendations of the legislature, attempts have been made to have the professional organizations concerned intensify their efforts, working jointly and cooperatively to solve this problem. These efforts have met with little success.

3. We propose that AB 2428, with appropriate amendments, would solve this problem in the public interest, health and safty and resolve the areas of conflict of responsibility and enforcement of California laws in the fields of Architecture, Civil and Professional Engineering as it applies to Building Design.

This proposal would take the form of allowing those competent persons presently practising to be covered under the law and provide that in the future, (after a specific cut off date) those persons desiring to engage in the business of designing buildings as an agency service would be required to qualify as architects or engineers.

The pattern would be similar to that of the California Accountancy Act in its provisions for Public Accountants.

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Note: Wire recorder was not functioning for first fifteen minutes of this hearing.

ZEL L. CONN, American Institute of Building Design: -- or hire the services of an engineer. Now, we have court cases that we have referred to here whereby an individual client has retained, an engineer himself, he retains an unlicensed person to do the architectural design. The man prepares the aesthetic design, and the client then takes this design to an engineer for the purposes of doing calculations, the building itself, and the other man is figuring out the way to make the building stand up. We presume that this right of association shall be clear cut, so that any man in the engineering field as a licensed civil or structural engineer should not be harrassed or threated with loss of his license if he does engineering work for a client.

ASSEMBLYMAN KNOX: Now a designer could retain an engineer and do any kind of designing -- he could design a 20 story building if he wanted to, right?

CONN: Well, we don't -- this is a contention of the opponents of the bill. This is not what we propose. We have limited it in that the building designer would only be engaged in homogenous structures. He would not be engaged in the design of dams or bridges or anything of this nature.

KNOX: What is an homogenous structure?

CONN: Well, it would be an office building or something of this type. A commercial or residential structure.

KNOX: Without regard to size or scope.

CONN: No. Now, for example, assuming I am a barber and I happen to have a barber shop with a vacant lot next door, I can design a 20-story building to put up on that lot, whether I have knowledge or not of design.

According to present law, I can take this design to an engineer and request that he engineer this building for me. But if I want to retain a building designer under the present section, and I take this same, or I should say more adequately prepared plans to an engineer, there is a serious question as to whether the engineers' board may not frown on having the man engineer such a structure. In other words, it is an incongruity in the law. Now, we have brought examples of the capabilities of individuals practising in this field. They have practised as a result of existing law. They have developed their talents and they have expanded their talents. We have tried to select a good average -- here's one, a residential structure; that's a church over there that one of our people has designed. We have done this primarily to show you that the people practising in the field, at least those that we represent, are competant, qualified people. We feel in the public interest there should be some regulation of this group.

KNOX: How does it compare then, with, let's say, the prerogatives of the architects? If this law were enacted, what would it do?

CONN: An architect has the right to do his own engineering. An architect is exempt under the engineers' Act. That would be the sole difference.

KNOX: This would be the principle difference, other than title, of course.

CONN: Right.

KNOX: In other words, the architect qualifies in his examination for engineering work.

CONN: The building designer would be required to have the engineering phase and have the final say on the engineering phase of the structure.

MARGOLIS: To wind up my part of the contribution to this, I would like to say that we have in California a number of people who are working

in this field. They are permitted to do so under the terms of existing law. They are permitted to practise and to do this work. The demands of public health and safety would seem to require that those who are engaged in the practise of doing this kind of work ought to be regulated, ought to fulfill qualifications, those who engage their services ought to have some minimal assurances that if he pays his money to acquire a set of plans that he will get a satisfactory set of plans that can be engineered, that can be built upon. In addition, on account of the vagueness of present law, on the one hand it is possible for anyone with no qualifications at all to engage in this work, and secondly it is possible for the other branches of this profession to harass the individuals who are in it. Now, if they are allowed under the present law to engage in this work and they have been making their living and devoting themselves to this activity, they should be able on the one hand to increase the competance and professional standing of their people, and on the other hand to be able to protect themselves against this harassment, against having the investigators of the architectural and engineering board go around to their clients, or go around to the engineers with whom they deal and threaten them with having their licenses pulled or what have you. There is a great deal of evidence that can be brought on to the records here to show that this has gone on and it seems that they ought to be protected. If they are able, and if they are allowed under the present law to engage in this practice, they ought to be able to bring to the public a product, a creative effort which assures the public of getting what they are paying the money for.

McMILLAN: Larry, could you elaborate a little on the grandfather provision?

MARGOLIS: As I understand it, anyone who can meet the minimum qualifications, and this is usual in setting up licensing arrangements,

the main provision, the main qualification would be to be able to demonstrate to the Board that this individual has been engaged in this practice professionally for four years prior to the time that the license is issued to him. The exact specifications, or the exact qualifications would have to be determined by the board, by the people who know this field. But this would be the main qualification. Then, anyone who can show this, is entitled, that can show that he has been working in this field for four years, can qualify, as long as he meets the other normal qualifications of good moral character requirement, could qualify for a license, and there would be a two year period during which such qualifications could take place. After that no one else would be eligible to enter it or to receive a license.

McMILLAN: Unless they were a certified engineer or architect.

MARGOLIS: Right.

McMILLAN: But would they apply for a designer's license? An engineer or an architect?

MARGOLIS: Well, they -- an engineer or an architect can practise in this field without being licensed as a designer.

CONN: Mr. Chairman, may I make a comment in that regard? We have a Legislative Counsel's Opinion here, dealing with what we had suggested as further additional proposed amendments to bear out the interests of the representatives of the architect's profession, whereby the architects have gone on record that they feel, and this has been true both in California through the California Council for the AIA and also the State Board of Architectural Appeal that the Architect's Act needs additional restriction. In other words, the perpetual practices act. And, on the other hand, they also have agreed that the present law is difficult, if not impossible, to enforce. So what we are proposing here is a more effective Architectural Practices Act, providing for those individuals who are by virtue of being already engaged in this profession, by virtue of existing law. And in this

request that we made to the Legislative Counsel, for these additional amendments, the limitation it says would -- our question was, if these amendments to Sections 5536 - 37 which is incidentally the Architects' Act, would it have the effect of precluding anyone other than an architect building business of building design. And in the opinion of the Legislative Counsel, they say it would. That is, they would not preclude the individual from designing a structure for his own use, but to offer his services to the public as a professional specialist, he would have had to prove his qualifications in some manner.

McMILLAN: Mr. O'Connell.

O'CONNELL: How was -- the bill, as amended in Assembly May 26 -- was that the final version?

CONN: That was the final amended version.

O'CONNELL: The grandfather provision comes in, as I see it, in Article 2?

CONN: Yes, sir.

O'CONNELL: It occurs to me that this is not the legal grandfather clause where the practice of the profession sought to be licensed is permitted to be licensed without an examination. There isn't any provision in the bill, as I see it, for anybody who is trained to be a building designer to be licensed.

CONN: Well, this is the course which we have pursued in following the pattern which has been set by the accountancy act.

O'CONNELL: I think that is a very bad example of what the legislature has done.

CONN: Oh. Well, we all have our viewpoints, Mr. O'Connell.

O'CONNELL: Some years ago we passed a bill which permitted certain people in the profession of accountancy to be licensed as public accountants, and then closed the door, so to speak, although future legislatures

held it open for a few more years, but there is no way, now, in which a person can become a licensed public accountant except as a certified public accountant.

CONN: Correct. Now, you feel that this is --

O'CONNELL: As I understand it, certain people who have been holding themselves out as designers, would become licensed as designers, but in the future a man would have to be licensed as an architect or as an engineer or something other than as a building designer. Is that right?

MARGOLIS: May I remark to that? This is true. As a matter of fact, the advocates of this bill refer to it as the self-liquidating arrangement. And this is, in a way, yielding to the other professional groups in a sense, if I may describe it that way, of existing law. This professional activity has grown up and the people who are engaged in it and who have banded together in associations are willing to see a tightening up of the architectural law but they have become established in this deal and are making their living at it and presumably anybody that comes along after this is enacted knows that this avenue is not available to them, and in order to engage in building design they will have to -- this is, in a sense, a compromise with the architectural and engineering groups.

O'CONNELL: The architectural and engineering groups still oppose it.

MARGOLIS: Undoubtedly. But my point only is that it yields to them in this regard rather than setting up -- it rather sees over the long haul the elimination of this sub-section of the profession.

CAMERON: Did the advocates of this bill feel that there is a distinction between the design function and architecture?

MARGOLIS: I think the way we could put it, is that the architect performs two functions. One, the design one, and two, the engineering one. There are professional engineers. Some of the work they do is done by architects. And the designers do not do the engineering work -- they

maximize or emphasize that aspect of architectural work which has only to do with design.

O'CONNELL: Which involves some knowledge of engineering.

CONN: Rudimentary knowledge.

O'CONNELL: A good designer / probably would have something more than a rudimentary knowledge of engineering.

CONN: That part is true. We have other people here to testify, one of whom is a building designer who is associated with a structural engineer. A structural engineer acknowledges the fact that he lacks the ability and knowledge of the design function, but he feels that his associate has no peer in this field.

CAMERON: But his license gives him the complete freedom as far as that design function is concerned, even though he hasn't the tecnical competance.

CONN: That is correct.

O'CONNELL: If he doesn't have the tecnical competance himself, he employs somebody who does, who doesn't have to be licensed in his ordinary pursuits.

CONN: That is correct.

CAMERON: What I don't understand is the self-liquidating feature. If you agree that there is a definite area here of tecnical competance that is something that is not necessarily required -- if you want an act and the opponents are opposed to it anyway, why not go ahead and go for an act on this particular function?

CONN: Well, Mr. Cameron, in this regard, this is a measure of offering to the opposition force, as Mr. O'Connell points out they opposed it in its present form regardless. However, they have acknowledged that there is a need for strengthening and making a true architectural practices act. We feel that this is the mechanics for giving them that opportunity, to make it

a true architectural practices act. Now we have, in the past, proposed legislation that would have done nothing more in effect than the same thing that the architects have in their act, in other words allow someone to call themselves by a title. But we are concerned with the public interest.

O'CONNELL: Would that be a registration?

CONN: That would be a registration. We have made extensive surveys of other states that have programs of architects in training, things of this nature, engineers in training in California, whereby these matters could be resolved, I think, amicably, between the groups involved if they were interested in sitting down and talking it out and working it out in good faith. But we have proposed this program, because basically it results in an economic hassel, you might say. Whatever harassment has arisen has arisen as a result of economic pressures.

O'CONNELL: As a result oflegislation having licensed architects and engineers in the first place.

CONN: Well, maybe the legislature in its wisdom may see fit to change that.

O'CONNELL: This is a problem which the legislature creates for itself, when it licenses these people, and I don't exclude the legal profession, either.

CONN: Oh? I was going to ask you, Mr. O'Connell, about that profession.

O'CONNELL: There is a certain lapping over of competance in that field as well as there is in engineering, architecture, and other things. My feeling about it is that any approach to a solution of the problem which is based on what the legislature did for the public accountants some years is inheritantly a bum approach to it.

CONN: Well, every state has been using a similar system in this regard, at least in the field of public accounting.

O'CONNELL: Tell me, are these building designers unable to be licensed as either architects or engineers for the most part?

CONN: Well, this is the most frequent question that is asked, Mr. O'Connell. By and large, as a result of the existing law, these men have engaged in this practice. They came into their practice in varying degrees of competance. Some may have been graduates of schools of architecture and never got around to taking the examination, or flunked the examination and entered into this particular field, or maybe they don't have any background whatsoever, in other words, they know which end of the pencil to grab. So they become designers and they offer their services and as they go along they become more and more competant and their families become larger and larger, and this precludes them from taking extensive periods out of their attempts at livelihood to undertake the rigors of examination. Now, I know that the testimony of the opponents will indicate that numerous people have obtained their licenses from a status of building design. This we cannot argue with. But we are not talking about a few isolated cases now, we're talking about the majority. This is, as I said, an economic struggle. Our opposition to, let us say, licensing for building designers, does not stem from the major architecture or engineering firms, and when I say major I am talking about the Luckmans, the Welton-Becketts, and so on and so forth, but it stems more in an area where they feel that the building designer is a competing economic interest. And our concern, basically, though, is that the public is the one that is being caught in the middle in this thing. Because we will fight any effort to stiffen the existing laws and leave these men out in the cold whereby they have no means of providing for their families, if they are competant, and so therefore we are offering this as a means of protecting the public, giving them

licensure, registration and regulation and at the same time the status quo in the other professions could be maintained as well.

O'CONNELL: How many people are we talking about?

CONN: This is a difficult figure to ascertain. However, we estimate in California alone there are probably an estimated three thousand persons that engage in agency services of building design.

McMILLAN: That would be qualified under the grandfather clause?

CONN: Whether you would -- I don't think that the entire group would be eligible to qualify under the law. I would say probably twelve hundred or fifteen hundred may be able to prove competance of practice.

O'CONNELL: Are these people who are self-employed? This twelve or fifteen hundred or the three thousand?

CONN: Well, the three thousand figure in this deal, I would say we can say they are self-employed. By this I mean some of them may be draftsmen in an architectural office or an engineer's office and undertake some business on the side to provide design service.

O'CONNELL: How many are exclusively holding themselves out as building designers to the public?

CONN: I would say that those that are engaged in that full time field would be in the area -- probably around fifteen hundred. And we have within out membership close to a thousand that are engaged exclusively in the design field. Are there any more questions here?

O'CONNELL: I have one more. The possibility of losing the licenses that has been discussed so much -- have there been any licenses lost as a result of complications to these people?

MARGOLIS: Not as far as I know. There have been two cases that have gone to court which were both settled in favor of the designer where the designer was charged with practising engineering in one case, and architecture in another, I believe. But it doesn't often reach the stage of

getting to court because that isn't the way harrassment works. It is always short of that. Letters are sent out saying that we have complaints that suggest that you may be in violation of the law if you keep on dealing with the building designers and your license is going to be in jeopardy.

CAMERON: These are letters that came directly from the board to one of their licensees? Do you have copies of any of these letters?

MARGOLIS: Yes, I have in front of me copies of letters from engineers who complained of this kind of treatment and I think the association has in its files letters which have gone out from the investigators implying this kind of thing.

CAMERON: Is anybody here today from the board?

CONN: Actually, Mr. Cameron, the gentleman that designed these model structures that these models represent was cited as having practised in violation of the engineers' act. They arrested him and in the subsequent course of events the district attorney dropped the charges, because he said there was no basis for prosecution. In another instance a man down closer in your area, he was also arrested with the charge of practising engineering and in the court case it was proven that he was practising under the architects' act, and that he was only acting as an agent for the client in the recommendation of an engineer, and that the engineer was working directly for the client and was paid by the client and that the designer didn't exercise any influence of the engineer. The main contention is, in the interest of public health and safety, that you would not want the building designer, let us say, to say, that I like this aesthetic design whether it will stand up or not, I am controlling this job, and this is the way it is going to be. This is not what we propose. We propose that in the engineering phase of the job the engineer has the final say.

MARGOLIS: To the question that Mr. O'Connell raised about the complications of licensing laws generally, this doesn't represent what we think of

as a finished proposal but rather a framework in which a finished proposal ought to be possible of achievement. If the committee is intent on seeing an end to the continuous hassel among these various groups, we feel that it ought to be possible to require of them that they get together and hammer out something that represents equity for their various clientele and bring in, either in the nature of an amendment to the architectural law or a new statute which will satisfy all of them. I don't feel that these issues are so far apart that they couldn't be resolved as a result of negotiation and good faith.

O'CONNELL: This negotiation ought to procede without the interference of this committee, I would think.

CONN: Mr. O'Connell, a representative of the American Institute of Building Design, the President, has a statement along this line that may show the strong feeling that the profession has with regard to the public interest.

McMILLAN: There are six other proponents of this bill scheduled this afternoon, so I think we had better move along and if you have something new to add, that's all right, but if it is just a repetition, please make it as brief as possible, will you? The next one will be Robert Van Roekel? Well, there are six more people listed here, the President of the American Institute of Building Design, and the Legislative Chairman, and the President of the California Society of Professional Designers, and the Secretary, and the First Vice President. Now, do you all want to come up here at the same time, or do you want to make your pitch individually? Go ahead, why don't you, one at a time.

VAN ROEKEL: Mr. Chairman, I am Robert Van Roekel, President of the American Institute of Building Design. I have a very brief statement which I would like to read to the Committee, which summarizes pretty much the attitude and the thinking of the American Institute of Building Design.

McMILLAN: Will you leave a copy with the committee? How long is it?

VAN ROEKEL: It is just a rough one -- it's just a very short one.

McMILLAN: All Right. Go ahead.

VAN ROEKEL: The State of California with its many millions of residents and more construction than any other state in the nation has developed as a result of existing law a substantial group of individuals practising unregulated. Many of these unlicensed architects have served the public successfully for years by the actual practice of architecture. A substantial segment of these practitioners have established a successful practice by actual demonstration of their design and administrative ability. The American Institute of Building Design, in the absence of a state administered licensing and regulation for designers, has initiated its own examination and registration program. The purpose of this program is in the public interest, whereby the Institute is establishing the professional proficiency of its members offering design service on an agency basis to the public. The only problem is, if our members don't comply with the high standards we have established, all we can do is eliminate them from our organization. They can continue to operate unregulated outside of our organization, damaging the public at will. In other instances we have examples where individuals are legally practising unregulated who are lacking in ability, with the result that the public becomes the victim of their incompetance. Members of this committee, opponents to designer licensing may ask the question, is not the best method of policing a profession self-regulation? The answer would be yes, provided there would be a method of dealing with incompetant practitioners to the extent that they could be prevented from doing the public harm. It is our considered opinion that in the public interest the answer lies in legislation that will result in the regulation of building designers. We feel that Assembly Bill 2428 is the first logical step toward the development of that regulation.

This bill is patterned after what the legislature in its wisdom developed to regulate accountants that were not licensed CPAs, that were yet offering agency services to the public. There seems to be some question about that.

O'CONNELL: Only about the wisdom.

VAN ROEKEL: Anyway, the law provided for the self-liquidation of public accountants. As those so registered left the field either through qualification as a CPA or by death, we repectfully urge this committee to give the same consideration to protecting the public interest through the regulation of building designers as proposed in Assembly Bill 2428. Any questions?

McMILLAN: Any questions from members of the committee? Thank you very much, Mr. Van Roekel, for your time. The next witness is Thomas F. Shoemaker, Legislative Chairman of the American Institute of Building Design.

SHOEMAKER: Mr. Chairman, in the interest of moving this along, I do have a very brief statement. I have been out attending the legislative hearings for a good number of years. I remember some of your smiling faces. I do believe that we are a little bit closer together than we were at some times past. I think Mr. Conn was referring to me when he said that one of the designers was associated with the structural engineers. My partner is licensed as a structural engineer in California, Arizona, and Nevada and is considered a very competant person. By his own words, and he was trained as an engineer in the structural components of a building, he knows little of aesthetics, he is not interested in it, his exams do not require it, and he is interested in what he is licensed to do. And that is engineering. Now one thing that I have noticed that representatives that give their testimony up here are not always speaking for the rank and file members that I personally meet back home. There has been a lot of testimony that the engineers do not wish to work with designers. I have found in my own particular interest that nothing could be further from the truth, really. A lot of them, a lot of their livelihood depends on design work coming to them, from both the architectural

and the building designers. They are ready, willing and able to do engineering legally but there has been a lot of confusion from controversies in this area in trying to police the bills, confusion with three different categories working in this profession and I think that it can be and it is certainly in our interest to protect the livelihood first to compete fairly and to get this problem settled. I would like very much to go home and design buildings and I think from talking to some of the representatives of the opposition who have become friends of mine to some extent except when we are up here, I think it can be solved, and we are looking to you gentlemen to help us out. Thank you.

O'CONNELL: The building designer performs functions which many architects also perform. Is that correct?

SHOEMAKER: That is very true.

O'CONNELL: Architects will very often perform functions which an engineer might perform.

SHOEMAKER: Well, to answer your question, the engineers are permitted under present law to practise architecture, and the architects are permitted to practise engineering. Now, I have a lot of friends in the architectural profession also. Many of them, the law permits them to practise engineering, even though the scope of an engineer's exam is far more extensive than that of an architect. Most architects, when they reach -- they are like this engineer that does not wish to practise design, when they reach the limit of what they feel their engineering involves, they retain an engineer.

O'CONNELL: Well, now,let's take this model we have in front of us, the church. This could -- ordinarily is the product of an architect working without an engineer. Is that correct?

SHOEMAKER: This could well be. However, churches throughout California are also designed by building designers. I would say that --

O'CONNELL: I am talking about the interplay between architects and

engineers now. As I understand it, when one gets into twenty story buildings, perhaps you may have an architect and an engineer. But when we get into relatively modest buildings -- homes, churches, even small schools, we have an architect who also takes care of the engineering plans. He does it without the aid of a licensed engineer.

SHOEMAKER: I can only answer this in this way, since I am not representing the architects. I would say that normally, a structure of this size, that most architects could handle the entire situation. However, all this work is based on individual talent and ability. He may also see fit to retain an engineer to check his calculations. It would be up to the individual.

O'CONNELL: Or if there happens to be no architect, an engineer might retain the services of a building designer.

SHOEMAKER: This is possible.

O'CONNELL: Or he might do the design himself.

SHOEMAKER: This is possible. I would like to take one more moment -- this is merely a personal observation but I believe from my experience it is true. Design, and a great deal of architecture, I feel is very similar to art. I mean there is an inborn talent. It is a creative ability. Now, I do know, and I will say this, and I think possibly the architects would also, some of them, say this. Certain people will never be designers or architects. I mean, I have seen men work for 14 years -- he may make a fair draftsman in the back room, but as far as the design work, no amount of schooling will ever make a designer or an artist out of him. Some of it is creative, and a lot of our problem lies in this.

O'CONNELL: This problem appies to architects, too. Certain architects are not artists, either.

SHOEMAKER: I can truthfully say once again from my own experience, that there is incompetance in any field, including the building designers and architects.

O'CONNELL: I'm not talking about incompetance, I am talking about this lack of creativity that exists is most fields. There are only a few of us blessed with this creative ability and I am basing all my observations, I guess, on Ayn Rand's masterpiece, but there are certain people who have some creative ability, but most people don't. And the architect is probably more apt to have it than the average plumber. Most architects probably, at least in a relative sense, are not creative.

SHOEMAKER: Well, I would have to let them answer that. However, most of them have, by proving -- they have proven, and we do not take this away from them -- they have proven that they are capable by passing the exam.

O'CONNELL: Which is not a test of creativity.

SHOEMAKER: It does have a design problem, yes. And I am not familiar -- I have not taken the exam yet, although I have heard quite a bit about it. But I would say that they have proven that they are more capable than a person who has not taken the exam. I think the main difference is that the building designer in the main, I am thinking of majorities again, are not interested, and neither will they ever be designing hospitals and schools and things of that nature. I don't think that is their desire, they are in a lighter construction industry, and the exemption in the present act has allowed them through the years to become more competant.

O'CONNELL: Well, let me ask you this. This is really the purpose of this whole line of questioning. What is it -- having in mind the public welfare -- that an architect is qualified to do, that a building designer is not qualified to do?

SHOEMAKER; Well, actually, from what I know about it -- first of all, in protecting the public -- assuming that -- now, I may be wrong, but I have heard this, and I have lived with it -- a building designer may notify a client in writing that he is not an architect.

O'CONNELL: I am not talking about the law, I am talking about --

SHOEMAKER: I think I am reaching to this. If he does a poor design, or performs a poor service, and a building has a failure, there is practically no recourse for the owner to obtain a judgment against the designer, by the mere fact that he is not licensed in the first place.

O'CONNELL: I don't think that follows, but I think that is not the question I asked. The fact that any license -- let us assume that nobody was licensed in this field, neither engineers nor architects nor building designers. What I want to know is, what is it than an architect is more competant to do than a building designer?

SHOEMAKER: What is he allowed to do or --

O'CONNELL: No, what is he more competant to do?

SHOEMAKER: I think this comes right down again to individual work.

O'CONNELL: In other words, as a class, there is no difference?

SHOEMAKER: I would say in a general class, there would be.

O'CONNELL: You mean that, in general, architects are more competant that building designers?

SHOEMAKER: I would say for larger structures, yes. On the lighter construction, residences, and the fields that the designers practise in, I would say no.

O'CONNELL: Well, up to a certain point, then, on certain types of structures, you would say that a building designer was as competant as a class as the total class of architects.

SHOEMAKER: I would say that the designers that we are representing in our own Institute would be pretty much on an equal level.

O'CONNELL: Well, why aren't you suggesting, then, that building designers be licensed to do what they are competant to do?

SHOEMAKER: We have tried this in the past, sir, and we have come out with very little -- we have benefited nothing -- it has been stopped. It has gone on for years. We did have, in the past, a proposal for licensing

acts of our own and it was stopped.

O'CONNELL: Well, I would be inclined to support an act for building designers in view of the fact that we have already licensed engineers and architects, and attorneys and accountants and doctors, but I would want to be assured that we were licensing the building designers for services that they were competant to perform.

SHOEMAKER: I think we would agree with you.

O'CONNELL: I think that this approach that came with AB 2428, modeled after the Public Accountancy approach -- this is my opinion -- I really think this is the wrong approach. You really should go after something else, even though the architects may disagree. I am prepared to take Mr. Fleury's abuse if he wants to object to that.

McMILLAN: Are there any other questions? Now, the next witness will be William Matthouser.

MATTHOUSER: I am Mr. Matthouser, gentlemen. I didn't come prepared to say anything other than perhaps answer question if there were any questions is regard to the harrassment in my particular case.

McMILLAN: Have you anything new to add to what has already been stated?

MATTHOUSER: No, sir, nothing of any consequence.

LEVERING: Are you an engineer?

MATTHOUSER: I am a designer, sir.

LEVERING: Who harrasses you?

MATTHOUSER: The investigators from the Engineering Board.

LEVERING: You're not licensed. How can they harrass you? They can't take a license away from you.

MATTHOUSER: No, but they can harrass me to thepoint of taking my livelihood away from me.

LEVERING: How?

MATTHOUSER: Well, simply by harrassing the engineers whom I have been

working with.

LEVERING: Then they don't harrass you directly, they harrass the engineers.

MATTHOUSER: Directly, because they brought me into court and fine me -- make me post a $500 bond. They harrass my clients to thepoint where they have influenced them as to the question of my ability.

LEVERING: I don't understand what you mean. What could they bring you into court for?

MATTHOUSER: Misdemeanor -- offering to practise civil engineering. And this was a case that was brought up the second time --

LEVERING: I see. You're being charged --

MATTHOUSER: I was accused of offering to practise engineering. The case was dropped because of lack of evidence. It was obvously a case of harrassment. The engineer that I had hired to do the approval of my client, acting as his agent, -- I felt competant to do the engineering on this particular church, for that matter -- was harrassed to the point where he no longer -- he thought perhaps he would lose his license -- will work with me. And this is the case with about four engineers in my locale.

LEVERING: Well, doesn't the key to this go a little bit further? Let me ask you a couple more questions. Do you say that the investigators for the Board -- now who is back of them? Is it some competition?

MATTHOUSER: I would believe so. I cannot say. There was a complaint issued against me for offering to practise engineering. Now, obviously this stemmed from someone who felt the pressure of my opposition, otherwise there would be no incentive on which to force an issue.

LOVERING: Well, this follows a pattern of other -- these kind of complaints follow the pattern of complaints in other industries that have problems in getting together, where one side is harrassing the other side. This isn't the first time we ever heard that complaint, in connection with

others.

O'CONNELL: It won't be the last, either.

McMILLAN: Are there any further questions from the committee of Mr. Matthouser? If not, thank you very much for appearing. The next witness will be Peter L. Ayers.

AYERS: I am Peter L. Ayers, President of the California Society of Professional Designers.

McMILLAN: How many members do you have?

AYERS: At present we have approximately 50 members, and as reported in today's copy of the Daily Pacific Builder, we will within a month merge with the American Institute of Building Design, inasmuch as our policies and many of the things I will say very briefly are just in support of things already said. I will pass over them quickly. First of all, the present law allows incompetant persons to offer design services, and the public has no protection because there is no legal control. There is no licensing law, and unless the individual practises within the realm of engineering directly, there is no recourse for the public against them. Secondly, the bill will protect existing practitioners and prevent a large group of perhaps 1500 people from being put out of work. Third, this question of harrassment, generally represents efforts that are not legally substantiated to discredit designers and to discourage licensed engineers from working with designers. The harrassment generally is not in the form of written complaints as was passed earlier. It usually takes the form of an investigator going to a client or an engineer and suggesting that the designer and engineer are in violation of the act -- not definitely accusing. Briefly, I would state that no engineer who is competant and ethical would compromise his integrity by doing substandard engineering just due to the economic pressure for or with a designer, any more than he would do this for a client, or a doctor would do something incompetant just to save a client money. And finally,

the provisions of the Engineers' Act as now written would prevent persons other than engineering from brokering engineering services as has been charged by the opposition. And this is covering Section 6738 of the act. Any questions?

McMILLAN: Who wants to question? Is there anything that is illegal or unethical for engineers to refer work to the designers?

AYERS: It has been indicated to me by an investigator that this is illegal, and further, that it would be illegal for me even to refer work to an engineer. Their interpretation of brokering services, brokering engineering services has been extended to even so much as recommending -- well this is engineering -- go see this engineer.

McMILLAN: Well, thank you very much. No further questions? All right. The next witness, then, is Robert M. Sherman, Secretary of the California Society.

SHERMAN: I don't have any testimony to give that hasn't been given, but I would answer questions. My name is Robert Sherman, and I am the Secretary of the California Society of Professional Designers. I believe the testimony on the bill has been pretty well covered, but Mr. O'Connell asked two questions and I don't feel that he had a satisfactory answer. And if you would care for my answer on it I would be very happy to give it. The first was, what is the difference between a designer and and engineer, or a designer and an architect -- excuse me. An architect is permitted by license to do all phases of architecture -- that is, creative design, structural design, mechanical design, electrical, etc. In practice, he rarely does more than the creative design. The building designer does only the creative design. He does not do civil engineering, structural engineering, and rarely does he attempt mechanical or electrical engineering. Your next question was, why couldn't we settle these differences without the legislature. I have been associated with this problem for ten years, and we find that the opposition would like to

stiffen up their act to delete any further possibility of unlicensed people doing work. Now, to do this, they must either account for those who have built up a practice and take them into the picture or put them out of business. In the past there have been many discussions as to -- well, we'll get together and talk it over, but the practice has been that this only goes as far as that statement. Then, the action is that attempts are made to modify acts by certain minor changes which gradually tend to eat away the feasibility of the unlicensed man. In my opinion, there will be no joint effort of the parties involved to really resolve this unless there is some manner of forcing this to happen. It isn't going to happen by those that are in, to take in those that are out. It's as simple as that.

O'CONNELL: You are, in a sense, forcing the issue, and that is your right, by causing this legislation to be introduced.

SHERMAN: Yes, sir.

O'CONNELL: My suggestion was that the legislation in its present form doesn't appeal to me, as an individual member of the legislature. I was merely suggesting that you might look for a form which would be more acceptable, mainly to define your competance and ask to be licensed on that basis, whether or not the architects and the engineers like it. And I think that your argument will stand on its merits, if you do it that way. This approach seems to me to be a back door approach, which really doesn't sell itself on its merits, as far as I am concerned.

SHERMAN: Well, we've been trying it for ten years, and perhaps you are right. Maybe we aren't going about it the right way, but it is a question of fighting off with one hand and trying to prepare with the other.

O'CONNELL: I know the job isn't easy.

McMILLAN: Any other questions? Well, thank you very much, Mr. Sherman. Now the last one, I believe, is Mr. Hegeman.

HEGEMAN: Thank you, Mr. Chairman, I believe I have nothing further to add.

McMILLAN: Is there anyone else in the room who would like to speak for the bill?

BROCK: Mr. Chairman, could I have two sentences?

McMILLAN: Come up and speak in the mike.

BROCK: I am William Brock, president of the architectural designers assod ation. For the record, Mr. Chairman, gentlemen, we strongly advocate the licensing of architectural designers. For the record we would like to take a neutral position on AB 2428. Thank you.

McMILLAN: Any questions?

O'CONNELL: I sense that there is some difference between a building designer and an architectural designer. Is there?

BROCK: Not necessarily, no. It is a matter of choice of words and definition.

O'CONNELL: Both are engaged in the business of designing structures, but neither is licensed as either an architect or an engineer.

McMILLAN: You are not taking any position on this bill because you don't believe that it is properly drafted or is it because you feel that there is no need for any further regulations or legislation as far as the designers are concerned?

BROCK: We believe that there is a definite need, although the bill --

McMILLAN: You think there is a problem?

BROCK: Yes, there is definitely a problem, we feel.

McMILLAN: Wouldn't this bill solve it?

BROCK: I think there is a better approach.

McMILLAN: What would be your approach?

BROCK: For a number of years I have been in many hearings on the problem. Most everything we have said, or a great deal of it has been already said in previous hearings. There has been, I think, a bill presented in the past that would probably do a little better job for our particular

purpose than AB 2428. I still feel that it must be eventually -- this must come to pass to solve this situation, and I know no other way to solve it, other than licensing the architectural designers. But it is a matter of how this is done, on which we differ in opinion.

McMILLAN: What is your organization?

BROCK: Architectural Designers Association, Incorporated.

McMILLAN: Any questions? Well, thank you. Now we are ready to hear from the opponents. Mr. Kennedy is not here, is he? Is Mr. LeRoy Greene here? Do you want to make a statement? Or Mr. Wright?

WRIGHT: Mr. Chairman and members of the Committee, I am Don Wright, legislative advocate for the California Legislative Council of Professional Engineers. Since this is a technical problem I think you would probably gain more by listening to Mr. LeRoy Greene who is a practising engineer in the field. Also I would like to state that I have a letter here from the California Council of Civil Engineers and Land Surveyors, where Tony Kennedy is authorizing us to speak for him, as our position is very much the same.

McMILLAN: Thank you, Mr. Wright.

GREENE: My name is LeRoy Greene. I am the President of the California Legislative Council of Professional Engineers. This council has fifteen engineering societies that make up its membership -- it is all the major engineering societies in the State of California. On behalf of our profession and on behalf of architect associates as well, we even find ourselves in the position of questioning the term building designer as used in this bill, because engineers and architects are building designers. We object to the effort of persuading the public that drafting services and draftsmen that proposed this bill are professionally trained and educated to design buildings. If an architect is not a designer of buildings, then we don't know who could properly be considered a designer of buildings.

It's a little difficult to think about this, because we can see that the building designers -- they have a right to make a living in this area in which they operate. They are presently making a living in this area in which they operate. The difficulty seems to come up when they attempt to become licensed because of what we consider efforts at attempting to expand the area in which they would operate. It is this to which we oppose ourselves. Again, on the bill itself in detail, on page 2 of the amended bill, line 6 and 7, they say in part, they are speaking of building projects limited to two stories and a basement in height, in the present engineering act, which says that anyone -- you don't have to be an engineer or an architect -- anyone can design single or multiple dwellings, not more than two stories and basement in height. We feel that this is again an encroachment here by taking out the word dwelling and making it any two-story building. We readily agree that dwellings of this size can be competantly and safely built by contractors who have proven their ability under the contractors' license law; we agree that not only so-called building designers, but also anyone else who wants to work with a contractor on such a building. We do not agree that public safety is assured by allowing building draftsmen to design the multitude of complex buildings other than dwellings, that might well be limited to two stories in height. Public safety is not necessarily a function of the height of a building. Right across the street here, I am sure you have noticed the large field plane building going up just across the street. We think the design of such a building lies properly within the civil engineers' act, as it does now, even if it were reduced to a two story project, suitable for design by engineers and architects rather than building designers, even if it is only two stories in height, instead of as tall as you see it going on up there. On page 2 of this bill, line 23, it says that the building designing shall not be construed as engaging in the practice of architecture. It follows then, that the design of hotels, office buildings, department stores,

libraries, hospitals, churches, city halls, what have you, and so on, is not architecture until the building is three stories or more in height. This is something very difficult to accept in this bill. In other words, now we are talking about the details in the bill presented to this committee and why we object to this bill. The difference between building designing and architecture again seems to be the number of stories in the building. Perhaps the building designers in this case would consider themselves -- maybe they would like to have the title as two-story architects, because this is the line on which we seem to depart. In Article 2 on page 3 they say that after January 1st, 1962, nobody can do what we building designers have always been allowed to do, unless he registers as a building designer. Line 32 to 39 goes on to say that if you are 21 years old, good moral character, and have engaged in building designing for four years, the Board of Architectural Examiners has no choice but they must register you. They must register you as a building designer, there is no choice in the matter. This person need not know how to read or write, he may not ever have gone to school, he need not be competant, he need not be given an examination -- he cannot be given an examination, he need not even ever have designed or worked on the design of a building. Note that this bill says the applicant regularly engaged in the practice of building design as defined in the chapter, for a period of four years, shall be certified. Note again on page 2 of the bill, starting on line 1, "Building designing" is defined as preparing, furnishing or obtaining for others, designs, plans and specifications -- obtaining for others, or furnish plans and specifications without having any knowledge whatever of building design, and never having designed a building. This bill still considers such a person a building designer. Again we feel a flaw in the measure before you. We cannot agree with this, because we still feel that architects and engineers are building designers, the ability of architects and engineers to protect life and property is attested to by

education, by training, and by thorough examination. This bill offers no evidence whatever that the group seeking registration has anything to offer the public well-being. This bill in fact diminishes public protection. How come? For example, on page 4, line 31, we have Section 6675. This section, is a word for word repeat of 6745 of the present Civil and Professional Engineers' Act, except that again the building designers have made a little deletion. And that is on line 24 of page 4 of this bill, that after the word "equipment" the present law says "Provided such alterations do not effect the structural safety of the building." This has been deleted in this proposal. On page 4, Section 6677, line 40 --

O'CONNELL: Are you referring to the bill as introduced?

GREENE: No, as amended.

O'CONNELL: I don't follow your line references.

GREENE: I am sorry, as introduced it was on line 24, page 3 -- the same reference is still in the bill -- I think I crossed myself up on references.

O'CONNELL: Line 24 is blank on page 3.

GREENE: Well, I really have fixed myself, haven't I. They have gone on here, in any case, they have in this bill, I believe they will concur with what I state, taken the present civil engineers' act, except on the last line of the act, in their bill, there is the word equipment, and following that they have left out some of the words that are in the existing law. In the original bill that I have here before me, in their bill, it says here, alterations or additions to any building --store fronts, interior alterations or additions, fixtures, cabinet work, furniture or other appliances or equipment. This is on line 24, page 3, of the original bill of March 29. Then, after that, in the present law, it says "provided that such alterations do not effect the structural safety of the building." That phrase has been taken out of this proposed bill. On page 4, Section 6677,

line 40, indicates that building designers are not exempt from the engineers' act in this bill, because they have taken on all two story buildings instead of two story dwellings, and this item that we just spoke of, on structural safety. These are both diminitions of public safety. This section, again Section 6677 on page 5, line 7 of their latest bill, the twice amended bill, goes on to say that the building designer can hire a civil engineer for consultation if the building designer wishes, for the preparation of structural calculations. As a civil engineer, in other words, I can be employed to make the calculations. I am then to go away until I am invited to return and review and approve the plans drawn to specifications made by the building designer or other non-architect or non-engineer. I am an employee, in this case, of the building designer, but on page 5 of the amended bill here, lines 9 and 10, I am responsible for the plans and drawing and so on by others. I, the employee, am responsible. My employer, the building designer, that may have made some mistakes in his portions of the plan, and is not a civil engineer, and therefore is blameless. Here we have a strange case where the principal is held blameless and his employee can be attacked. This we hold is not in the public interest. Any person offering to act as a principal to design a building and who cannot be held responsible for his errors is certainly not offering proper protection to public life and property. Gentlemen, it is simply this. There is no need for licensing the building designers, certainly not along the line proposed here. Those who with to practise under the exemption of the civil engineers' act should be free to do so. There has been some comment here about pressure from our side, from the architects' side, to destroy their means of a livelihood. I would be interested to find them with any bill that was submitted to the last, or before that, legislature, in either house, that took from them some area of practice. And if there are such bills I will assure you that speaking for the California Legislative Council, we have no

interest in cutting down the area of operation of the building designer group. In the present engineering law, and it has been there for a long time, it says, anyone who wishes shall be allowed to design single and multiple dwellings of not more than two story and basement in height, garages and other structures appurtenant to such dwellings, farm or ranch buildings, any one story building of a 25 foot span between bearing walls, unless it is a steel frame or concrete building. Any building designer can do these things today, and should be allowed to continue to do so. We have no quarrel with it.

O'CONNELL: Would you accept, Mr. Greene, that a building designer is to be licensed to do that which they are presently allowed to do under the exempt portion you just quoted, and nothing more?

GREENE: I have no objection to their doing what they are presently allowed in the law to do under any kind of licensing or anything else.

O'CONNELL: I think you and I, at least, are in some sort of agreement, because that is what I was driving at with the witnesses for the building designers.

GREENE: Mr. O'Connell, under present law of cities, counties, state, building departments within city and county and state, contractors' licensing law, when the engineers' act was passed we found a horizontal line. We said it would be unfair for engineers to try to claim that we should do these minor structures, because we find that through existing law, through existing building departments, laws on the books, the efforts that contractors must go through to pass their examination, that there is, in our opinion, full public protection in this area. Therefore in our mind, there isn't need to limit, to deprive other people of the right. See this, now, is what the building designers say -- they claim that we try to push them out of the area. I think that it is they who are attempting to make an exclusion here, depriving other people of this right. Now, if between the legislature and

the building designers, it is agreed that you wish to push other people out of this area, we cannot object, because it is not our area, and never has been, and we have never claimed it.

O'CONNELL: But when you draw a line, perforce you are going to have people who will approach and perhaps step over the line.

GREENE: Unfortunately -- it will have to have some loops, is what you are getting at.

O'CONNELL: Well, it seems to me that what the building designers are really after is some kind of -- whether it takes the form of legislation or otherwise -- to have more thoroughly marked line up to which they can go.

GREENE: Well, you know, Mr. O'Connell --

O'CONNELL: They are not draftsmen.

GREENE: That's the point. You know, and I know, that no matter where any line is drawn, when you come to the line, there is a grey zone, and there is going to be two sides to the question, and that is where lawyers make their living, you know where there are two sides to a question. We, of course are going to be on one side, and they who are licensed on the other side are going to come up to this fence and we are going to be shouting threats at each other as to who is stepping across the line like any kid with a line drawn on the pavement. It has been stated here that there are 1500 or 300 designers -- I won't quibble or argue the numbers, but there were only 2 specific instances given you of harrassment. Now what does that mean? It means a question was raised. Are we to understand that a question is raised on either side, that this constitutes harrassment and something must be done about it? Every time you go into court, the two sides of the case certainly do not win. Then should court procedures be refused because the one side lost and the other side won?

O'CONNELL: Yes, but you understand me, Mr. Greene. If the building designers had an administrative agency of their own, these problems would

be worked out between your administrative agency, that is the engineers, the agency for architects, and the other agency for building designers, and it wouldn't be necessary, nor would it be usual, I would think, for some investigator for the engineers or the architects to go to the clients of the building designer or to the engineer or to the architect that the building designer might be working with. This would be adjusted sort of within the family.

GREENE: Let me say this, sir, the building designers may well dispute this statement. I had asked of the Board of Registration, I had asked of the executive secretary, how many cases do you have in a year -- how many times is there a situation whereby you go out and challenge some person because in your opinion he is violating a provision of the Engineers' Act? And he said, well, as far as going into court -- or just how far do you mean? As far as investigation, as far as a question being raised, he said perhaps a matter of six times in a year, a question is raised. Of those questions, how many go to court, I don't even begin to know. This statistic may be challenged, and of course you can only listen to two sides and draw your own conclusions.

KNOX: Would that church come within the area that the engineers have said that we don't want to bother with, or is that --

GREENE: There was some skating around here when we talked about who does churches, and so on, too.

KNOX: Well, I mean, you listed the things a designer can do, the 25 cases -- now does that church fall within that or not?

GREENE: That church -- I am not aware, you have a bill here, and as I interpret the bill --

KNOX: I am not talking about the bill, I am talking about the present law.

GREENE: As I interpret the present law, that church requires the

services of a Civil Engineer.

KNOX: Now, as I understand it, the prosecution was caused, and maybe I am mistaken, in that Mr. Matthouser retained an engineer to look at the thing, and that is where he got into trouble. Is that your understanding?

GREENE: I am not competant to speak on that case.

KNOX: Well, if he had retained an engineer, we are just speaking of this as a hypothetical situation now, would that be a violation of the act?

GREENE: It is my understanding that there is an opinion which states that a project is either civil engineering or it isn't, as a whole. If it is not civil engineering, it is not within the purvue of this board, there is nothing to talk about if this isn't civil engineering. But if it is, then the principal, the civil engineer, must be responsible for the project. He must sign a contract with the owner and the owner must be able to hold him for anything that is wrong with this project.

KNOX: Well, now that building, just to get back to that for a second, does that fall within the provisions of the 25 foot span and over two stories and various other things that you mention?

GREENE: In my opinion it does, but then I am quibbling with you, because here is building here that is a single story thing and that part of it probably does not. This part of it does. What you do with a thing like that, I don't know.

KNOX: In other words, it is two stories in height, but it's really only--

GREENE: No, I am saying that this long arm out here may be less than 25 foot span, and this other room over here may be greater than 25 foot span, and therefore may come under a different provision of the code, and now you are getting again to the grey zone, where I can well see that an investigator might go out here, because he sees it on the borderline again, and of course an architect wouldn't design a building with that many holes in the roof.

KNOX: Well, I think they just put that in --

GREENE: I'm sure they did.

KNOX: Well, what I don't understand is whether the designers wish, by legislation, to be allowed to do more than the things that you listed, or less.

GREENE: Sir, we have no objection to them doing the things that were listed, that they can presently do. We have no objection to them continuing to do what they are permitted to do under law from today till hell freezes over, and the day thereafter. Beyond that, I can't answer.

KNOX: I can't either. I don't know what they want to do.

McMILLAN: Any further questions? Mr. Fleury, would you -- Mr. Fleury is an ex-member of the California Legislature, and ex-judge.

FLEURY: Would you put me down, Teddy, for having two copies of the transcript, when they are typed up, or can we order them? Don't you make any copies? Well, if you can will you put me down for a special order? Mr. Chairman and members of the Committee, as you know you have heard this bill or a bill similar to it in the past, and historically the architects have been opposed to it. I am an attorney and legislative advocate for the California Council of the American Institute of Architects and here today to state this to the committee, that we are opposed to this bill as it is drafted for the reason that it has been a long standing policy of the California Council, that there has never been any evidence shown by the building designers that it was in the interest of the health and safety of the public to have a licensing act for the designers. And historically the California Legislature has always been on record that to have a licensing act, there is only one requirement, one major requirement, and that is that it is for the health and safety of the public and not to give a stamp and title to some group who can, by use of that fancy title, enhance their income. It has never been shown, in any testimony

that I have read, that there is a public need for licensing building designers. They state there is, but they only deal with it in a general term. They have never shown any specific examples in any testimony or any written document that there is, in the interest of the public, the need for such a licensing act. And if they did bring evidence before this committee, or if they can bring it before the architects, then I think we would be able to intelligently discuss either with this committee or with them, whether or not there should be a licensing act, or more official recognition than there is now. Because you must remember that they do have official recognition now within this area of certain classes, as Mr. Greene testified. They can use the name, building designer, and they are known as building designers; they have an association, and they have a field that they can work in. So there really is no need, as we see it, for any further step, unless it is in the general interest of the public of the State of California, and not just in the general interest for them to be known by a particular title because they could not qualify as either architects or engineers. Now, there were 519 people that became licensed architects in the past year. Those people went to school, qualified and passed the examination. And any of us here, even the members of this committee, or the architects feel, that if they are going to design structures which this bill would allow them to do, other than the exemptions that are now in the law, that they should, then, pass the test, and we feel that with proper education today that most of them can pass the test. However, if there is this field that should be licensed in this state -- I told several members of this committee, Mr. Elliott I know being one of them, Mr. Hanna from Orange County being another one, that I would definitely be willing to have the architects appoint a committee of top architects in the State of California to sit down and discuss the problem with the building designers and with the engineers and to make a concentrated effort to determine if

it is in the public interest to have such legislation, because members of this legislature told me that they were sick and tired of hearing this argument, and to sit down and come up with a concentrated study that can't be done before a committee of the legislature

McMILLAN: Mr. Fleury, did you ever importune the designers to sit down with you and discuss this problem?

FLEURY: Now, I am going to come to that. You anticipated me. You want to get out of here and so do I. I was just wording it -- it must have been that second martini.

McMILLAN: It wasn't the third?

FLEURY: But let me tell you that we do have such a committee of the architects now appointed, Mr. McMillan, and Mr. Shoemaker of the designers and Mr. Conn and Mr. Van Roekel have discussed this with me and have said that they would, of course, come in, and there would be no question that they were more than willing to cooperate with this committee. And so that's why I am here today. It is not to tear this bill apart, because it doesn't take much of a lawyer or even a layman to tear that bill apart -- it isn't proper -- Mr. O'Connell has pointed out a lot of features that are bad about it; Mr. Cameron has; and so have others. And so I want you to just hear for a few minutes, if you will, Mac, Mr. Floyd Rible, from Los Angeles. Now Mr. Rible is Chairman of this committee of the architects that I said would be appointed. And it's a process with architects -- we have to go through councils and boards of directors before we can get the actual committee, just like in all large organizations. But Mr. Rible is Chairman of this committee, and he is a former member of the State Board of Architectural Examiners, and was its president for two years. And he is the past president of the Southern California Chapter of the American Institute of Architects, and he is a former regional director for California - National American Institute of Architects' Board. He is a renowned architect, and he is a

good administrator and we are fortunate in having him head up this committee which I told the members of the legislature would be a blue ribbon committee of architects to work on this problem.

McMILLAN: Are they going to require a special examination to serve on that committee? What is the delay? What takes them so long?

FLEURY: He has passed the examination, and so I want Mr. Rible, if you will allow him, just to explain the function of his work on this committee, Mr. McMillan.

McMILLAN: All right.

RIBLE: Mr. Chairman, gentlemen, I think that inasmuch as you wish to retire shortly, that it is appropriate for me to express on behalf of all those sitting on the lower level here our appreciation for the time you are giving to this very important problem, important to us at least. And Mr. Chairman, I also ask your forgiveness, if I may, in not disqualifying my testimony just because you and I met in the halls of the Transport Indemnity Building over a period of years.

McMILLAN: In the elevator.

RIBLE: There have been many interesting observations made in respect to this controversy, and so many of them I would have been happy to take up one at a time. I am not going to discuss details. I do think that in order to establish the fact that I am not a blue ribbon architect, I am not a distinguished architect, and all the other fine things that Mr. Fleury said about me, that I should tell you, with your forgiveness, just a couple elements about my own personal experience. This is merely to establish a qualification, shall I say. I took the four day written examination to practise architecture in this state, and had opened my own office shortly thereafter ten years before I finally obtained my college degree. Now, not many people do it the hard way, but I guess I am one of those that did. I only mention this because I think its pertinent. Also that I served on the

Board of Directors of the Southern California Chapter first in 1943. This indicates that they are not calling a blue ribbon architect, just an old has-been. Now, the Southern California Chapter of the AAA happens to be the second largest chapter in the United States. I don't know whether that is pertinent or not, either. Now, the California Legislature in the early 1900's was the sold legislature in these United States to adopt some sort of control over the design and construction of buildings. I am sure in those days they did not foresee the current problem which we all hear discussed. Had they, I am sure it would have been solved and written, discussed and concluded at that time. Now, because of my own experience, just a trifle of which I have alluded to, I am somewhat sympathetic with the group that makes the proposal that they did -- not sympathetic with the proposal, but sympathetic with their approach, because I realize that this in effect is a phenomena that has grown up through a couple of war times and a couple of depressions that no doubt have been the experiences through which many of these people have gone, and who now think that for one reason or another, as suited and answered by themselves they think that they should not nor need not become architects. So, I merely mention this because I think it is pertinent. We certainly appreciate the offer of the building designers and their assistants to us, their offer of assistance to help us strengthen our bill. Certainly under the period of some 60 years now, there have been these phenomena that have grown up and which must be answered sooner or later in one form or another. Now, I mentioned a moment ago that there have been many interesting facets that have been mentioned that each one of which should have been explored individually and answered. But I would like to make just one statement in this regard. Many, or several, have stated in effect that there are differences of operation between designers, engineers, architects, etc., etc. But I would just like to leave this one thought with you. That

regardless of how this thing is set up, the architect, as prime contractor, for the design of a structure, carries the total responsibility, financially and legally. And having been in the profession for a long time I am well aware of this. Quite apart from whether we retain consultants in one form or another of engineering, we, the architects, assume total responsibility. Now, Gordon Fleury has mentioned this committee. Having been in the profession, quite active over a period of many years, I know a little bit about some of the attempts that have been made in the past, not only to strengthen the Architects' Act, but to attempt somehow or other to coordinate the problem of the building designer with architecture. I will say this, and I am only basing this now on my own personal approach, the administrative committee of the CAlifornia Council of Architects asked if I would chairman a committee to take a long, serious, objective view of this whole problem. And I said if you don't require an answer right away, you will allow us time to look into this thing objectively, that I will assume the responsibility. As a consequence we have had now three meetings of our committee. I have endeavored through what leadership I may exercise to keep any member of the committee from uttering any conclusion in these three meetings, but have cautioned them to take this long term objective look.

McMILLAN: Are these meetings just with the architects -- you're not meeting with the designers?

RIBLE: Not yet, Mr. Chairman. Now, as soon as we have completely informed ourselves on all facets of the problem as we see it, we will, we have given our word, and I have met personally with the President of the American Institute of Building Design, and have assured him; I have given him my word personally as a gentleman that we will meet with them shortly. But we do not want to meet until we have done some soul searching sufficiently to be sure that we understand this problem ourselves. I am sorry I can't give you any pertinent testimony. As far as details are concerned, why I

can assure you that this effort is being conscientiously and objectively made.

KNOX: I just want to ask, is it anticipated that these meetings will take place before the 1963 session of the Legislature?

RIBLE: Yes.

McMILLAN: That is, you are referring to the joint meetings with the designers.

RIBLE: Yes, to the joint meetings between the two committees.

KNOX: We can't well afford having to go through this whole hassel again next session.

RIBLE: This is what we hope, sir.

McMILLAN: You're meeting in your group with the expectation of pounding out some minimum concessions, perhaps, on this bill.

RIBLE: Perhaps. I personally have not come to any --

McMILLAN: And presenting them to the designers, is that the idea?

RIBLE: That is correct, sir. I can't express a broad hope at this time, and I wouldn't care had I had such a hope in my mind, but it appears to me that there may be an area in which we may ultimately reach agreement. This is merely a hope.

O'CONNELL: Would that area of agreement possibly include some tightening of the architectural law, the practice of, to define more clearly what we mean by the practice of architecture?

RIBLE: That is a function of the committee also.

O'CONNELL: And as a result of these negotiations then we might expect some legislation to be offered in the 1963 session, provided you can reach some agreement.

FLEURY: Absolutely.

O'CONNELL: You were here, I believe sir, when Mr. Greene was testifying, I believe the sense of his testimony was that he had really no objection

whatsoever to the building designers operating in the field where they are presently authorized to practise under the exemption in the Engineering Practices Act. And perhaps you heard my suggestion that perhaps the building designers should be looking for a licensing law of their own which would permit them to go no further than they are presently permitted to do under this exemption, but to have an administrative agency of their own to police in cooperation with the architects and the engineers, the actual practice in the field. Would you think that that is a solution?

FLEURY: It is a matter of record, Mr. O'Connell, that the architects have been unalterably opposed to such a licensing act, and that is their present stand. Everybody knows that they are positively opposed to such licensing, they have testified before. For reasons there is no sense in going into now, but I generally take it that it was felt it was not in the public interest.

O'CONNELL: I just wanted to -- as I understand it, the position of the engineers -- I don't want to committ Mr. Greene and his organization to this position.

RIBLE: I would say that we couldn't make the same statement that he made.

O'CONNELL: I understand. So, while you are not opposed to -- your position is not opposed to the building designers practising that which they are under the present law permitted to do, you would still be opposed to the State's licensing them to do those same things.

FLEURY: I give you the present policy of the California Council, and it would be in opposition.

O'CONNELL: And the present policy might change as a result of these negotiations.

FLEURY: Well, I don't know. But certainly, the reason for the study is to either reaffirm the old policy or make a new one, or there is no sense

in wasting everybody's time.

McMILLAN: Thank you, gentlemen. Now, I'd like --

FLEURY: I'd just like to state that we also have Mr. Frank Hope who is President of the California Council of the American Institute of Architects here from San Diego, and Mr./ Steve Allen, the Vice President from S.F did either one of you gentlemen want to testify?

HOPE: May I say just a word?

FLEURY: Sure. This is Mr. Hope, who is the President of the CAlifornia Council of the American Institute of Architects. From San Diego.

HOPE: Thank you, Gordon. I would like to say this much, to bring it to your attention, that the American Institute of Architects, actually the California Architects, are behind the designers to this point, that we would like to encourage them to become architects. Now one code of our organization, that architects that become architects by studying without going to college, and without having any formal education, and these men can become architects if they want to put the effort into it. It's not fair, in my opinion, for them to be able to become designers or anything else that would take the work away from architects. It is not fair to the students that studying architecture and putting all their time and effort into becoming architects. If you don't have to do that, it is just letting down the bars. It was said that architecture is a very vague practice, well that is wrong. It is not vague at all. We have a four-day written examination that has to be passed, and when a man becomes an architect he has some responsibility. And many of these men, I have talked to them, have better educations than a lot of architects and could become architects if they just put in the effort to study a little bit. I'm talking as President now, for the Architects, and I don't know what is going to come out of this committee I appointed, but I think that they are a little unfair in not going to work like the rest of us. I never went to college. I had

to take examinations. I took it three times before I passed it, but on the other hand I did become an architect, and it was a dream, and I just think that it is not fair for the younger men coming up. Now the younger men who become architects, their whole livelihood is invaded, in doing this small work. It isn't that the architects don't do small work -- they have to -- the young man starting in architecture has to do small work. We'd be just as strong on many of the designers that become architects. There are several hundred every year become -- men passing the examination. And they are becoming -- I am trying to encourage the other fellows to become architects. That's why we have the architects -- architecture is architecture, and you can't say that building designers --

McMILLAN: Just a minute. How many architects are there in -- licensed in California?

FLEURY: 3,600.

McMILLAN: And how many are you admitting per year now? They have loosened up some in recent years.

FLEURY: 519 last year.

McMILLAN: And the year before?

FLEURY: Well, up until 1950 there were 50.

McMILLAN: 50 what?

FLEURY: 50 licensed -- 50 in that year.

McMILLAN: 50 a year, and there were about 2,000, weren't there, in California? 1900 and something -- about 2,000. Well, the only point I am bringing out, that it looks like a pretty closed corporation to me, and almost impossible to get into the darn thing. Now, there are lawyers coming in at the rate of a thousand a year, I guess. And doctors coming in.

FLEURY: Mac, there 50 that passed the test in 1950. Now, that's ten years ago. Ten years after that 509 passed in one year.

McMILLAN: It shows that they are loosening up a little bit.

FLEURY: That's right.

O'CONNELL: How many schools of architecture are there? In the state?

HOPE: U.S.C., Stanford, U.C., U.C.L.A., Cal Poly -- some smaller --

O'CONNELL: Is it difficult to get into an architectural school?

MARGOLIS Well, the same requirements as any other course -- you have to have your high school requirements to get into the school of architecture.

O'CONNELL: This is all undergraduate work?

MARGOLIS: Well, you have to start with three years of undergraduate work in college, and then you go into the school of Architecture. That is the usual way of doing it. The complete course. Two years of undergraduate, and I think two years of graduate -- not graduate, but three years in some cases.

O'CONNELL: Or something less than law school. Or medicine.

MARGOLIS: Oh, yes.

McMILLAN: Now I would like Mr. Conn. Would you come up here? Now, you gentlemen have heard this proposal and about this committee that is being formulated, and how far they have gone. But have you people any hopes of being able to sit down with the architects in working out something for future legislation, possibly, or do you feel that this is merely a stall to kind of kiss you off?

MARGOLIS: I am going to defer most of the answer to that question to Mr. Conn. I would just say this, that there seems to be a gap in the attitude of the various people who comprise the element in opposition to this legislation. The issue is not so much why -- a matter of these people not wanting to become architects. The point we have expressed is that the present law provides theopportunity for people to engage in this work to make their living this way, and a group has grown up that does that. Now, if the architectural practice act is changed, tightened up, then, as Mr. Conn testified, either these people are going to be squeezed out, or they are

going to be blanketed in without an architectural education, and there seems to be no consistency among the various attitudes that were expressed in opposition to it. As I said, I don't believe myself, and I know that Speaker Unruh doesn't regard this bill as a final and complete proposal as a solution to this problem, but up till now the proponents of the bill have felt that there has not been negotiation in good faith to reach some kind of a conclusion. There is a problem here. I think that the testimony adequately demonstrates that there is a problem. I think it can be resolved. I wouldn't want to predict the lines that it should take. I think that some of the problems that Mr. O'Connell has pointed out are legitimate and genuine, but I hope only that it won't take another 60 years of the existence of the Architect Act before some resolution of this problem takes place.

CONN: Mr. Chairman, members of the American Institute of Building Design stand ready at any time to sit down and discuss these problems at great length with representatives of the California Council of the AIA. The legislative committee of our group has been set up with this thought in mind, to work with the architects and see if we cannot work out some approach that would be mutually agreeable. We don't feel, with all due respect to the comments Mr. Rible has made, and I do consider Mr. Rible a blue ribbon architect, and a very fine individual, a man of outstanding capabilities, and the fact that he served as president of the Board of Architectural Examiners attests well of this. I do feel that as long as this committee has been appointed by the California Council of the AIA, there is no reason that some preliminary discussions may not have been held to determine if we have the basis of a common meeting ground, or should we pursue our own individual courses, as Mr. O'Connell suggested that wemight continue to embrace the idea of a separate practices act. They have agreed that there is the need, and contrary to what Mr. Fleury

said, contrary to what Mr. Greene said, we do have in writing, we have evidence in writing and testimony of harrassment, we have evidence of testimony in writing that there is a need for a correction in the architectural practices act, and there must be some sort of recognition for these people that are practising in the unlicensed field. We do feel that there is, certainly, every possibility for the interested professional groups to get together and work out mutually acceptable legislation to present to the interim committee for possible submission to the regular session of the legislature.

McMILLAN: Well, Mr. Rible, I would like to ask just one question -- do you propose to meet with this group in time to work out some mutual agreement for legislation, or are you going to meet just with your own group and determine your minimum concessions that you will make?

RIBLE: Mr. Chairman, the intent and goal is for this committee to meet at its earliest opportunity with the similar committee being set up by the American Institute of Building Designers. We feel that we must do sufficient soul searching to have our own position clear and our own basic information at hand before we meet with them, and that has been the reason why we have had meetings by ourselves up till now. We'll probably have at least one more meeting by ourselves before we meet with the like committee of the AIBD.

McMILLAN: The chance is, then, that you will meet with this committee before the next legislative session.

RIBLE: That is correct, sir. I hope within a very short time.

ELLIOTT: Mr. Rible, do you also plan to consult with the engineers, or do you think that is necessary?

RIBLE: If in the wisdom of our committee members, this is justifiable, we will do so. I do not wish to usurp any ideas that the committee may ultimately develop.

ELLIOTT: It seems to me that might be desirable, because you might work out some agreement among yourselves and then have another problem with the engineers.

RIBLE: It would be possible.

CONN: In that regard, Mr. Elliott, this was a point that was made by the Legislative Counsel's office. The complexity of the problem is great, one of the reasons being because of the two existing acts, to make sure that whatever is worked out dovetails with the existing law.

McMILLAN: Are there any further questions? Does anyone else want to make a statement before this committee? If not, I want to thank all the people who had a desire and intention, the purpose of our meeting, to hear all sides of this problem, and with the hope of you people possibly getting together and working out something among yourselves so that we can come up with some practical and reasonable legislation at the next session of the legislature. I hope that this committee will be able to do that. And I thank you again for appearing this afternoon, and the meeting will now stand adjourned.